



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/051,670

09/08/98

NAKAGAWA

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FJN-063

HM22/0317

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EXAMINER

ROMEO, D

ART UNIT

PAPER NUMBER

1646

DATE MAILED:

03/17/00

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

BEST AVAILABLE COPY

Advisory Action

Application No.
09/051,670

Applicant(s)
Nakagawa et al.

Examiner
David S. Romeo

Group Art Unit
1646



THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☐ expires _____ months from the mailing date of the final rejection.
- b) ☒ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on 6 Mar 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- ☒ The proposed amendment(s):
- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
- ☒ they raise the issue of new matter. (See note below).
- ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☒ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: See the Attachment.

- ☐ Applicant's response has overcome the following rejection(s):

- ☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See the Attachment

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: 5

Claims objected to: none

Claims rejected: 1, 2, and 6

- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Other

Art Unit: 1646

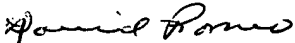
Attachment to Paper No. 14 (Advisory Action)

1. The proposed amendment(s) will not be entered because they raise new issues that would require further consideration and/or search. Specifically, the limitations "segment", "corresponding to", "second segment is upstream of said first segment" require further
5 consideration and/or search because the limitations were not previously examined and/or raise new issues under 35 U.S.C. § 112, first paragraph, with respect to new matter, and under 35 U.S.C. § 112, second paragraph.

2. Claims 1, 2, 6 remain rejected under 35 U.S.C. § 112, second paragraph, because the order of SEQ ID NO:1 and SEQ ID NO:2 in the DNA molecule are not clearly set forth.

10 Applicants argue that the DNA molecule must contain SEQ ID NO:1 and 2, regardless of order. Applicants' arguments have been fully considered but they are not persuasive. It is suggested that claim recite SEQ ID NO:1 followed by SEQ ID NO:2.

15 Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Romeo whose telephone number is (703) 305-4050. The examiner can normally be reached on Monday through Friday from 6:45 a.m. to 3:15 p.m.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached on (703) 308-4623. Official papers filed by fax should be directed to (703) 308-4242.
Faxed draft or informal communications should be directed to the examiner at (703) 308-0294.
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

20 
DAVID ROMEO
PATENT EXAMINER
March 16, 2000